

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
SEVENTH REGION**

**DTE ENERGY CO.¹
Employer/Petitioner**

and

**CASES 7-UC-558
7-RM-1445**

**GAS WORKERS LOCAL 80, SERVICE
EMPLOYEES INTERNATIONAL UNION,
AFL-CIO
Union**

and

**LOCAL 223, UTILITY WORKERS UNION
OF AMERICA, AFL-CIO
Union**

APPEARANCES:

Martin J. Galvin, Attorney, of Detroit, Michigan, for the Employer/Petitioner.
L. Rodger Webb, Attorney, of Detroit, Michigan, for Local 80.
Samuel C. McKnight, Attorney, of Southfield, Michigan, for Local 223.

**DECISION CLARIFYING UNIT
AND ORDER DISMISSING CASE 7-RM-1445**

Upon petitions duly filed under Sections 9(b) and 9(c) of the National Labor Relations Act, as amended, a hearing was held before a hearing officer of the National Labor Relations Board, hereinafter referred to as the Board.

Pursuant to the provisions of Section 3(b) of the Act, the Board has delegated its authority in this proceeding to the undersigned.

¹ The Employer's name appears as corrected at the hearing.

Upon the entire record in this proceeding,² the undersigned finds:

1. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.
2. The Employer is engaged in commerce within the meaning of the Act and it will effectuate the purposes of the Act to assert jurisdiction herein.
3. The labor organizations involved claim to represent certain employees of the Employer.
4. No question affecting commerce exists in Case 7-RM-1445 concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(1) and Sections 2(6) and (7) of the Act.

The primary issue in this case is whether the Employer's customer representatives, credit representatives, and cashiers previously employed by Michigan Consolidated Gas Company (MichCon) and represented by Gas Workers Local 80, Service Employees International Union, AFL-CIO (Local 80) who, on November 26, 2001, were transferred from MichCon's Detroit call center and Southeast Michigan business satellite offices to the Employer's Southfield call center and/or surrounding credit centers, constitute an accretion to the existing Local 223, Utility Workers Union of America, AFL-CIO (Local 223), bargaining unit of the Employer's customer service representatives formerly employed by The Detroit Edison Company (Detroit Edison).

The Employer and Local 223 assert that the group of MichCon employees represented by Local 80 constitute an accretion to the Local 223 unit. In the alternative, the Employer, in filing its RM petition, asserts that a question concerning representation exists which can best be resolved through the Board election processes, and that the customer representatives in the customer care department at the Southfield and Grand Rapids call centers, and the credit representatives in the credit and collections department at the surrounding credit centers, constitute an appropriate bargaining unit. The Employer and Local 223 further assert that the collective bargaining agreements in existence at the time of the merger do not constitute bars to an election.

² The parties filed briefs, which were carefully considered.

Local 80 asserts that the unit clarification petition is barred by the current collective bargaining agreements in place and that a finding of accretion would otherwise be inappropriate. Local 80 urges dismissal of the RM petition, asserting that the two unions can continue to represent their constituencies during the term of their agreements and that, as there are no conflicting representational claims made by either, no question concerning representation exists.

This proceeding results from the merger in June 2001 of Detroit Edison and MichCon, which resulted in the formation of the Employer. Since about April 2000, Local 80-represented approximately 127 of the Employer's customer representatives, credit representatives, and cashiers previously employed by MichCon at its Detroit call center and Southeast Michigan business satellite offices. These Local 80-represented employees were previously included in a wall-to-wall unit consisting of approximately 950 employees at MichCon. There is a collective bargaining agreement in place between Local 80 and MichCon effective December 3, 2000 to October 3, 2004, which the Employer continues to abide by with respect to the former MichCon employees. Local 223 also represented approximately 2,700 employees employed in a trade unit at Detroit Edison under separate contract effective June 7, 1999 to June 8, 2004.

Since about 1995, Local 223 represented approximately 360 of the Employer's customer representatives, credit representatives, and cashiers previously employed at Detroit Edison at its Southfield call center and Southeast Michigan business satellite offices. These Local 223-represented employees were included in an office, professional, and technical unit consisting of approximately 1,450 employees employed by Detroit Edison. There is a collective bargaining agreement in place between Local 223 and Detroit Edison effective June 7, 1999 to June 8, 2004, which the Employer continues to abide by with respect to the former Detroit Edison employees.

Prior to the merger, MichCon and Detroit Edison maintained separate customer service facilities to handle billing, credit, collection, and service inquiries from their respective customers. Detroit Edison provided electrical services to customers located in Southeast Michigan and MichCon provided gas services to customers located in Southeast Michigan. The Detroit Edison customer service department was headquartered at the inbound call center, also known as the customer communications center, located in Southfield. Approximately 300 customer service employees, including managerial officials, worked at the Detroit Edison call center. In addition to the main call center,

Detroit Edison operated 16 business offices for walk-in customers located throughout Southeast Michigan³.

The customer service employees who worked at the Detroit Edison call center were classified as customer representatives and senior customer representatives. Detroit Edison customers could reach the call center by dialing a toll-free 800 phone number after which they would be directly connected to a customer representative. The Detroit Edison customer representatives worked in cubicles equipped with personal computers and were trained to answer questions related to electrical service, such as billing and electricity turn-on and turn-off. The Detroit Edison customer representatives were assigned to specialized skill groups and would answer phone calls related to a specific topic, such as trouble calls from police and/or fire departments, downed wires, and appliance repair inquiries. The Detroit Edison customer representatives used the customer billing software system (CSB) in responding to customer inquiries.

The MichCon customer service department was headquartered between two call centers, one located at the Noble Building in Detroit and the other located in Grand Rapids. Approximately 100 customer service employees worked at the Detroit call center and approximately 80 customer service employees worked at the Grand Rapids call center. In addition to the main call centers, MichCon operated eight business offices for walk-in customers located throughout Southeast Michigan⁴. In December 1999, the undersigned issued a Decision and Direction of Election in Case 7-RC-21681 finding that the credit representatives employed at the MichCon business offices possessed a sufficient community of interest to warrant an *Armour-Globe* self-determination election as to their inclusion in the field service and distribution employees unit in the Detroit district represented by Local 80. An election was held and Local 80 was not successful, although MichCon thereafter voluntarily recognized Local 80 as the representative of its credit and collections department employees in an overall unit.

MichCon customers could reach the call centers by dialing a toll-free 800 phone number after which they would randomly be directly connected to a customer representative in either Detroit or Grand Rapids. The MichCon customer representatives were trained to answer questions related to gas service, such as billing and gas turn-on and turn-off. Unlike at Detroit Edison, the phone

³ The Detroit Edison business offices were located in Ann Arbor; Ypsilanti; Hamtramck; Southgate; Van Buren/Belleville; Cass City; Port Huron; Howell; Roseville; Beech St./Detroit; Grand River/Detroit; Lapeer; Pontiac; Monroe; Mt. Clemens; and Royal Oak.

⁴ The MichCon business offices were located in Ann Arbor; Hamtramck; Dearborn; Wyandotte; Muskegon; Eastbrook/Grand Rapids; Seven Mile Road/Detroit; and Eight Mile Road/Detroit.

calls to the MichCon customer representatives were not segmented into any specialized skill groups. The MichCon customer representative employees used the customer information software system (CIS), which was part of the company's main customer service system (CSS) in responding to customer inquiries.

After the merger, the Detroit Edison Southfield call center and the MichCon Detroit call center were combined into one call center at the Southfield location which is the headquarters for the Employer's customer care department and includes all of the customer representatives. All of the MichCon customer representatives from the Detroit office relocated to the Southfield facility on about November 26, 2001. The Employer continues to operate the previous MichCon call center located in Grand Rapids, which is staffed with former MichCon and Detroit Edison customer service representatives. Customer representatives at the Employer's Grand Rapids facility voted in a non-Board election to be represented by Local 223 in about October 2001. Both the Detroit and Grand Rapids call centers operate round-the-clock, 24 hours a day, and 7 days a week.

The Employer utilizes the former Detroit Edison CSB computer system in its merged operations and the former MichCon customer representatives were trained on CSB prior to the merger. All of the merged customer representatives were extensively trained from January 2001 to the merger date to respond to both gas and electrical-related telephone inquiries. As with the former Detroit Edison operations, most of the Employer's customer representatives have been assigned to specialized skill groups designated to handle certain priority calls such as gas leaks, downed wires, trouble calls from police and fire departments, appliance repair calls, appliance protection plan calls, payment agreements, and high risk credit calls. Although the training classes did not merge any former Detroit Edison and MichCon employees, the same customer service and billing training binder was utilized throughout both trainings and was distributed to all customer representatives. The merged employees at the Southfield and Grand Rapids call centers work in close proximity to each other and share the same computer equipment, office furniture, rest rooms, cafeteria, break rooms, parking area, exercise room, and training rooms. While the record demonstrates that initially the Employer allowed many former Detroit Edison and MichCon customer representatives to remain in segregated teams for ease of transition, it is also clear that presently there are some mixed teams of former Detroit Edison and MichCon customer representatives who report to the same supervisor and, moreover, it is projected that the segregated teams will be integrated after the start of the new year. There are about 30 customer representatives that work in the basement of the Southfield facility. Sixteen of these customer representatives are assigned exclusively to handling written correspondence on behalf of the Employer and the remaining 14 customer representatives respond to telephone inquiries as described

above. All of the customer representatives located in the basement possess the same skills, equipment, and training as the rest of the customer representatives described above. All customer representatives also share the same newsletter, which was distributed prior to and after the merger.

After the merger, eight Detroit Edison and three MichCon business offices were closed. Presently there are 13 business offices being operated by the Employer as credit centers, 7 of which are former Detroit Edison business offices, 3 of which are former MichCon business offices⁵ and 3 of which are offices from Detroit Edison and MichCon that were combined. These credit centers are part of the Employer's credit and collections department and employ credit representatives, as opposed to customer representatives and cashiers. The credit centers are open during business hours from 8:30 a.m. to 4:00 p.m.

Unlike the customer representatives at the call centers, the credit representatives do not handle any phone inquiries. Rather, they handle walk-in customer inquiries relating to the same general issues that are handled by the customer representatives, such as billing, gas and electric turn-on and turn-off, gas leaks, and service orders. The credit representatives received the same training as did the customer representatives regarding handling customer inquiries. The credit representatives and customer representatives use the same computer equipment and have access to the same customer files and data. There are telephones located on a wall of each credit center, which are available to walk-in customers who desire to telephone the call center for additional customer service assistance. The cashiers employed in the credit centers are exclusively responsible for collecting bill payments from walk-in customers.

The security department is also part of the credit and collections department and handles all reports of gas and electricity theft and fraud. The credit representatives at the credit centers as well as the customer representatives at the call centers are directed to report all theft and fraud cases to security.

While there has been little recent employee interchange between the Employer's Southfield and Grand Rapids call centers or between the Employer's call centers and credit centers, it is anticipated that there will be employee interchange between Southfield and the credit offices, especially during the busier summer months.

⁵ The parties have stipulated that the credit representatives employed at two of the three former MichCon offices (the Seven Mile Road and Eight Mile Road locations), which are strictly limited to bill collections, are properly excluded from the petitions.

Bridget Temple is the director of customer care for the Employer. She reports to Joyce Hayes-Giles, senior vice president of customer service. Reporting to Hayes-Giles are five managers: Suzanne Thornton, Grand Rapids call center manager; David Johnson, Southfield call center manager; Sherry Stephens, Southfield call center manager; and Carol Cwiek, Southfield call center manager⁶. Reporting to the managers are a number of supervisors who directly supervise the customer representatives at the Southfield call center. Thomas Stallworth is the director of credit and collections for the Employer. He also reports to Hayes-Giles. Reporting to Stallworth is the manager of credit and collections, Mary Greer-Bader. Reporting to Greer-Bader are a number of supervisors from each credit center office who directly supervise the credit representatives in the same office⁷. The parties stipulated that all the above managers and supervisors are supervisors within the meaning of Section 2(11) of the Act based on their authority to hire, fire, discipline and independently direct/assign employees.

As a threshold matter, a unit may be clarified in the middle of a contract term where, as here, the unit clarification procedure is invoked to determine the unit placement of employees performing a new operation. *Crown Cork & Seal Co.*, 203 NLRB 171 (1973). When the Board finds the disputed employees an accretion to an existing unit, it will clarify the unit to so indicate. *International Harvester Co.*, 187 NLRB 739 (1971).

In order to determine whether employees of the former Local 80 bargaining unit should be accreted to the Local 223 bargaining unit, the criteria traditionally utilized by the Board for that purpose must be applied. When an employer merges two groups of employees who have been historically represented by different unions, a question concerning representation arises, and the Board will not impose a union by applying its accretion policy where neither group of employees is sufficiently predominant to remove the question concerning overall representation. *U.S. West Communications*, 310 NLRB 854, 855 (1993); *Martin Marietta Chemicals*, 270 NLRB 821, 822 (1984); *Boston Gas Co.*, 221 NLRB 628 (1975) (hereinafter *Boston Gas I*).

For the following reasons, I find merit in the Employer's and Local 223's position that an accretion finding is proper where, as here, this is no basic change in the nature of the Southfield and Grand Rapids call centers after the merger, and

⁶ Thornton is the manager of the Employer's Grand Rapids call center. There is an unnamed fifth manager of workload and projects in Southfield, who apparently does manage any customer representatives.

⁷ Some supervisors are responsible for covering up to two credit centers.

there is no reason to question the majority status of Local 223, the predominant union.

The Employer's customer representative functions are now being performed by the former employees of Detroit Edison and MichCon on a totally commingled and fully integrated basis at the Southfield call center. All customer representatives represented by Local 223 and Local 80 work in contiguous areas, and share common lines of supervision, cafeterias, break rooms, rest rooms, exercise rooms and parking lots. Their job duties are now identical. The merged customer representatives perform functions similar to those performed in the past at the same facility and with the same computer equipment used by many of these employees. Although the merged employees at Southfield have assumed some additional functions (i.e., customer representatives who formerly handled only gas or electric service inquiries now handle both), this change in job duties is not so fundamental as to find that a "new operation" has resulted. Rather, the merger resulted in a physical move of certain functions, combined with the introduction of new equipment to some employees. *Boston Gas Co.*, 235 NLRB 1354, 1355 (1978) (hereinafter *Boston Gas II*).

As to the customer representatives at the Grand Rapids call center, these employees recently voted in a non-Board election to be represented by Local 223, thus removing any question concerning representation. The only remaining question is whether they can be included in another unit with the Southfield call center as urged by the Employer and Local 223. Although there is considerable autonomy in local supervision at the Southfield and Grand Rapids call centers, and none of the customer representatives in the Southfield and Grand Rapids facilities share common immediate supervision, the Grand Rapids and Southfield customer care managers report to the same customer care department director. Although there is no evidence of any recent employee interchange between the Employer's Southfield and Grand Rapids call centers, the toll free 800 customer service number used throughout the customer care operations, in which calls can be assigned to either a Southfield or Grand Rapids customer representative, has resulted in more centralized and functionally integrated operations. Thus, the Grand Rapids customer representatives have a significant functional relationship with the customer service operations of the Southfield customer call center and may be included in a broader unit as sought by Local 223.

Local 223 represents approximately 401 customer representatives at the Southfield and Grand Rapids call centers, while Local 80 represents approximately 110 Southfield customer representatives. Thus, the ratio of Local 223 represented employees to Local 80 represented employees is four to one. Thus, the number of employees represented by Local 223 is more than sufficiently

predominant to remove any question concerning overall representation in an overall combined unit at the call centers. *U. S. West Communications*, supra; *Boston Gas I*, supra; *Boston Gas II*, supra.

As to the approximately 67 credit representatives and cashiers employed at the various Southeast Michigan credit offices, 50 of these employees are represented by Local 223 and 17 are represented by Local 80. Although they are included in the Employer's credit and collections department, as opposed to the customer care department containing the credit representatives, both departments report to the head of customer service and these employees' job duties are similar to the customer representatives. Although the method in which they respond to customer inquiries is different (the credit representatives speak with customers face-to-face and the customer representatives speak to customers by telephone), the issues addressed by both sets of representatives is similar, e.g., billing issues, gas and electric turn-on and turn-off, and appliance repair issues. Although there is no evidence that the credit representatives at credit centers and customer representatives at the call centers interact with each other, there are telephones located on the walls of the credit centers for the customers to use for additional customer service assistance by a customer representative. There is some limited evidence of recent employee interchange between the Employer's Southfield call center and credit centers and the Employer anticipates that this employee interchange will increase in the future, especially during the busier summer months.

Based on the above, as well as that the overwhelming majority of credit representatives are represented by Local 223, I conclude that the credit representatives and cashiers at the Employer's credit centers possess an overwhelming community of interest with the customer representatives at the call centers such that they should be included in the broader unit as requested by Local 223.

Accordingly, **IT IS HEREBY ORDERED** that the existing contractual bargaining unit represented by Local 223 be, and hereby is, clarified to include all employees classified as customer representatives, credit representatives, and cashiers employed at the Employer's Southfield and Grand Rapids call centers, and surrounding Southeast Michigan credit centers.

In view of the foregoing, I find that no question concerning representation exists and, **IT IS HEREBY ORDERED** that the petition in Case 7-RM-1445 be, and it hereby is, dismissed.⁸

⁸ Under the provisions of the Board's Rules and Regulations, a request for review of this Decision Clarifying Unit and Order Dismissing Case 7-RM-1445 may be filed with the National Labor Relations

Dated at Detroit, Michigan, this 18th the day of January, 2002.

/s/ William C. Schaub, Jr.

William C. Schaub, Jr., Regional Director
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Board, addressed to the **Executive Secretary, Franklin Court, 1099 14th Street, NW, Washington, DC 20570**. This request must be received by the Board in Washington **by February 1, 2002**.